IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 12261 of 2005

Between:

The Toddy Tappers Cooperative Society, Narasaraopet, rep. by its President Sri Mallala Ramaswamy S/o Guravaiah, aged 51 years, R/o Narasaraopet, Guntur District.

..... PETITIONER

AND

1 The District Collector, Guntur District, Guntur.
2 The Commissioner, Prohibition and Excise, Guntur District, Guntur.
3 The Dy. Commissioner of Prohibition and Excise, Guntur District, Guntur.
4 The Superintendent, Prohibition and Excise, Guntur,Guntur District.
5 The Station House Officer, Prohibition and Excise, Narasaraopet, Guntur

District.
6 Balaboina Edukondalu, S/o Pullaiah,
R/o Munumaka, Narasaraopet Mandal, Guntur District.
7 Kukkadapu Tirupathaiah,
R/o Munumaka, Narasaraopet Mandal, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents 2 to 5 in re-considering the applications of respondents 6 and 7 for grant of Tree for Tappers License for the village Visappalem which is within the area of operation of the petitioner's Society purely on the recommendation letters of the Hon'ble Union Minister for Information and Broad Casting and an MLA;as illegal arbitrary, in contravention of the Scheme and also contrary to the earlier decisions of the respondents 2 to 5 on the very same issue and consequentially declare that the respondents 6 and 7 are not entitled for

grant of Tree for Tappers license within the area of operation of the existing Toddy Tappers Cooperative Society; and to pass such other order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.M.PRABHAKARA RAO

Counsel for the Respondent Nos.1 to 5: GP FOR PROHIBITION & EXCISE

Counsel for the Respondent Nos. 6 and 7: --

The Court, at the stage of admission, made the following:

Oral order:-

Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise.

The petitioner apprehending that the 6th and 7th respondents would be granted TFT license to the detriment of the petitioner's society, have approached this court. The petitioner has TCS license valid up to 2007, which was obtained in the first instance in the year 1993 with an area of operation consisting of Mulakalur, Jonnalagadda, Lingumguntla and Visappalem H/o. Mulakaluru villages. The 6th and 7th respondents have made applications to grant TFT license to them for the Visappalem village, which the petitioner claims that it is within its area of operation. The applications of the 6th and 7th respondent were rejected by the 1st respondent by the proceedings dated 11-01-2005 on the ground that:

1. There are no tappable excise trees within periphery of 50 Kms., as per Guide Line No. 6 of Toddy Policy 2004-05.

2. The proposed Isappalem village is Hamlet of Mulakalurivillage which is advertent to Narasaraopet town and comes under the area of operation of Narasaraopet TCS as per the bylaws of Narasaraopet TCS."

Thereafter, it appears that the 6th and 7th respondents made efforts for re-consideration of the said decision and according to the petitioner, by the proceedings dated 07-04-2005, the 2nd respondent directed an inquiry by the Deputy Commissioner of Prohibition & Excise into a complaint/letter addressed by the M.L.A., Miryalaguda dated 07-03-2005 regarding the request of the 6th and 7th respondent for TFT license. The 3rd respondent, on 20-04-2005 addressed the Sub-Divisional Prohibition & Excise Officer, Narsaraopet calling upon him to cause an inquiry and submit a detailed report. This communication was addressed by the 3rd respondent pursuant to the orders of the 2nd respondent dated 07-04-2005. On the

basis of this correspondence, which is an inter-departmental correspondence obtained by the petitioner, the petitioner apprehends that eventually TFT license would be granted to the 6th and 7th respondent, would commercially detriment of the petitioner and that all this is being done by the official respondents on the basis of pressure exerted by the political personalities including the M.L.A. of Miryalaguda and a central minister. Admittedly, as on date, no TFT licenses have been granted to the 6th and 7th respondents. Whether the orders of the 1st respondent dated 11-01-2005 rejecting the requests of the 6th and 7th respondent for TFT license cannot be reviewed by the said authority or varied interest in appeal and in accordance with the provisions of the A.P. Excise Act, are all issues on which no advance ruling can be made by this court. As and when licenses are issued to the 6th and 7th respondents, the petitioner is at liberty to seek appropriate reliefs. As on date no such licenses have been granted and, therefore, no cause of action enures and no complaint could be entertained by this court on the basis of an inter departmental correspondence and an inquiry conducted by some of the respondents into the validity of the refusal by the 1st respondent to grant TFT license to 6th and 7th respondents. The writ petition is, accordingly, dismissed. No costs.

GODA RAGHURAM, J

Dt. 13-06-2005

Pvks/*

Nb;- Furnish c.c. TOMORROW.

B/o pvks.

To

1 The District Collector, Guntur District, Guntur.
2 The Commissioner, Prohibition and Excise, Guntur District, Guntur.
3 The Dy. Commissioner of Prohibition and Excise, Guntur District, Guntur.
4 The Superintendent, Prohibition and Excise, Guntur,Guntur District.
5 The Station House Officer, Prohibition and Excise, Narasaraopet, Guntur

District.
6 Balaboina Edukondalu, S/o Pullaiah,
R/o Munumaka, Narasaraopet Mandal, Guntur District.
7 Kukkadapu Tirupathaiah,
R/o Munumaka, Narasaraopet Mandal, Guntur District.

8. G.P.For Prohibition & Excise, A.P. High Court Buildings, Hyderabad

(OUT).

9. 2 CD copies

*Form-NIC-OGS/WP{**AVLR**}*